



**Service of Process
Transmittal**

11/22/2017

CT Log Number 532347828

TO: Kim Lundy Service of Process, Legal Support Supervisor
Wal-Mart Stores, Inc.
702 SW 8th St, MS#0215
Bentonville, AR 72716-6209

RE: Process Served in Georgia

FOR: Wal-Mart Stores, Inc. (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Delovsky Jane, Pltf. vs. Wal-Mart Stores, Inc. and Jane Doe, Dfts.

DOCUMENT(S) SERVED: Entry, Summons, Complaint, Form

COURT/AGENCY: Gwinnett County State Court, GA
Case # 17C071542

NATURE OF ACTION: Personal Injury - Failure to Maintain Premises in a Safe Condition - 11/25/2015 -
1871 Chamblee Tucker Rd., Chamblee, GA

ON WHOM PROCESS WAS SERVED: C T Corporation System, Lawrenceville, GA

DATE AND HOUR OF SERVICE: By Process Server on 11/22/2017 at 09:21

JURISDICTION SERVED : Georgia

APPEARANCE OR ANSWER DUE: Within 30 days after service, exclusive of the day of service

ATTORNEY(S) / SENDER(S): Richard M. Howe
Howe Law Firm, P.C.
4385 Kimball Bridge Rd. Ste 100
Alpharetta, GA 30022
678-566-6800

ACTION ITEMS: CT has retained the current log, Retain Date: 11/22/2017, Expected Purge Date:
11/27/2017

Image SOP

Email Notification, Kim Lundy Service of Process ctlawsuits@walmartlegal.com

SIGNED: C T Corporation System
ADDRESS: 289 S Culver St.
Lawrenceville, GA 30046-4805
TELEPHONE: 866-286-4469

SHERIFF'S ENTRY OF SERVICE

SC-85-2

CLYDE CASTLEBERRY CO., COWINGTON, GA 30015

Civil Action No. **17 C 07 154-2**
☐ Superior Court
☒ State Court
☐ Juvenile Court

☐ Magistrate Court
☐ Probate Court

Date Filed _____

Georgia, **GWINNETT** COUNTY**JANE DELOVSKY**

Attorney's Address
 Howe and Associates
 4385 Kimball Bridge Rd
 Suite 100
 Alpharetta, GA 30022
 678-566-6800
 Our file No. RM-880

Plaintiff

VS.

WAL-MART STORES, INC. AND JANE DOE

Defendant

Name and Address of Party to be Served.

CORPORATION PROCESS COMPANY
(REGISTERED AGENT)
289 S CULVER ST**LAWRENCEVILLE, GEORGIA 30046-4805**

Garnishee

SHERIFF'S ENTRY OF SERVICE

PERSONAL

☐ I have this day served the defendant _____ personally with a copy of the within action and summons.

NOTORIOUS

☐ I have this day served the defendant _____ by leaving a copy of the action and summons at his most notorious place of abode in this County.

☐ Delivered same into hands of _____ described as follows: age, about _____ years; weight _____ pounds; height, about _____ feet and _____ inches, domiciled at the residence of defendant.

CORPORATION

☐ Served the defendant _____ a corporation by leaving a copy of the within action and summons with _____ in charge of the office and place of doing business of said Corporation in this County.

TACK & MAIL

☐ I have this day served the above styled affidavit and summons on the defendant(s) by posting a copy of the same to the door of the premises designated in said affidavit, and on the same day of such posting by depositing a true copy of same in the United States Mail, First Class in an envelope properly addressed to the defendant(s) at the address shown in said summons, with adequate postage affixed thereon, containing notice to the defendant(s) to answer said summons at the place stated in the summons.

NON EST

☐ Diligent search made and defendant _____ not to be found in the jurisdiction of this Court.

This _____ day of _____, 20 _____.

DEPUTY

SHERIFF DOCKET _____ PAGE _____

SUMMONS

SC-85-1

Cycle Castleberry Co., Covington, GA 30015

IN THE SUPERIOR/STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

JANE DELOVSKY

CIVIL ACTION
NUMBER

17 C 07 15 4 - 2

PLAINTIFF

VS.

WAL-MART STORES, INC. AND JANE DOE

CORPORATION PROCESS COMPANY (REGISTERED AGENT)

289 S. CULVER ST

LAWRENCEVILLE, GEORGIA 30046-4805

DEFENDANT

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

Howe Law Firm, P.C.
4385 Kimball Bridge Rd
Suite 100
Alpharetta, GA 30022
678-566-6800
Our File No: #RM-880

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This 20th day of Nov, 20 17

RICHARD T. ALEXANDER, JR., CLERK

Clerk of Superior/State Court

BY [Signature]

Deputy Clerk

INSTRUCTIONS: Attach addendum sheet for additional parties if needed, make notation on this sheet if addendum sheet is used.

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

FILED IN OFFICE
CLERK STATE COURT
GWINNETT COUNTY, GA
2017 NOV 20 PM 3:45
RICHARD A. ALEXANDER, CLERK

JANE DELOVSKY,

Plaintiff,

v.

WAL-MART STORES, INC.,
& JANE DOE,

Defendants

CIVIL ACTION

FILE NO.:

17 C 07 154-2

JURY TRIAL DEMANDED

COMPLAINT

COMES NOW JANE DELOVSKY, Plaintiff, and makes and files this complaint against Defendants Wal-Mart Stores, Inc. and Jane Doe as follows:

PARTIES AND JURISDICTION

1.

Wal-Mart Stores, Inc. (hereinafter "Walmart") is a foreign corporation existing under the laws of Delaware, doing business in Georgia, but with its principal place of business at 702 SW 8th Street, Bentonville, Arkansas, 72716. Walmart may be served through its registered agent, Corporation Process Company, 289 S. Culver St., Lawrenceville, Gwinnett County, Georgia 30046-4805. Therefore, jurisdiction and venue are proper in this Court.

2.

Upon information and belief, Jane Doe, at all relevant times, was a resident of the State of Georgia, and is a joint/obligor tortfeasor. Therefore, jurisdiction and venue are proper in this court.

FACTS

3.

On November 25th, 2015, Plaintiff was an invitee at the Walmart store located on 1871 Chamblee Tucker Rd., Chamblee, GA.

4.

Plaintiff was attempting to use a shopping cart escalator system to transport her Walmart purchases to a lower floor allowing her to exit to where her vehicle was parked.

5.

When attempting to load the cart onto the escalator, she enlisted the help of a Walmart employee, whose first name it is believed is Barbara, and who is named in this Complaint as "Jane Doe".

6.

At the instruction of Jane Doe, who was wearing clothing attire identifying her as a Walmart employee, she pushed the cart onto the escalator system. However, the cart would not take. Jane Doe told Plaintiff to push harder and yet harder again. Plaintiff did.

7.

While trying to push the cart onto the escalator, the cart instead of slowly catching, was jammed then suddenly gave way.

8.

As a result of this sudden "giving way" or perhaps detachment from the rail system, Plaintiff lost her balance, fell, and suffered severe injuries as a result. Additionally, subsequent to her fall Jane Doe failed to timely hit the emergency "Stop button/switch" thereby causing further injury to Plaintiff.

9.

At the time and place of the incident, there were no visible signs by, around, or in front of the escalator system indicating:

That the system was out of order;

How to use the system;

How not to use the system;

10.

At the time and place of the incident, there were no bars, or other safety systems in place, which might have prevented Plaintiff's fall.

11.

At all relevant times, Defendant had exclusive ownership, possession and control over the area of the incident, and of the cart escalator system at issue.

COUNT I

PREMISES LIABILITY

12.

Plaintiff realleges and incorporates herein the allegations contained in paragraphs 1 through 11 above as if fully restated.

13.

Plaintiff was an invitee on the premises at the time of the fall.

14.

Walmart, owed a non-delegable duty of reasonable care in keeping the premises safe for invitees such as Plaintiff.

15.

Walmart, was negligent in failing to properly, maintain and inspect the cart escalator system.

16.

Walmart was negligent by failing to post signs or instructions reasonably calculated to provide Plaintiff with instructions and/or warnings on the use of the cart escalator at issue.

17.

Walmart was negligent by failing to shut down the cart escalator system, or limit access to the system where it was broken or otherwise malfunctioning or to notify invitees that the system was broken and not to use it.

18.

Walmart was negligent to the extent it used a system inherently or unreasonably dangerous to invitees where it lacked certain safety bars or mechanisms designed to prevent its invitees from falling down or onto the cart escalator.

19.

Walmart was negligent to the extent that it did not properly check its shopping carts to insure that they were not broken or otherwise incompatible with the cart escalator system.

COUNT II

VICARIOUS LIABILITY/FAILURE TO TRAIN

20.

Plaintiff realleges and incorporates herein the allegations contained in paragraphs 1 through 19 above as if fully restated.

21.

At all times relevant to this action, the individuals responsible for inspecting, cleaning and maintaining the cart escalator, including the shopping carts themselves, which caused Plaintiff to fall were employed by Walmart and were acting within the scope of their employment.

22.

Walmart is responsible for the conduct of these individuals under the doctrine of respondeat superior, agency or apparent agency, and therefore is liable for the consequences of their negligence.

COUNT III

NEGLIGENCE OF JANE DOE & WALMART RESPONDEAT SUPERIOR

23.

Plaintiff realleges and incorporates herein the allegations contained in paragraphs 1 through 22 above as if fully restated.

24.

Jane Doe improperly advised/instructed Plaintiff on the use of the cart escalator system and further failed to hit the "Stop button/switch" timely after Plaintiff's fall.

25.

Jane Doe's negligence in this regard caused Plaintiff to fall and sustain injuries.

26.

Jane Does is liable to Plaintiff for the consequences of her negligence.

27.

At all times relevant to this action, Jane Doe was an employee of Walmart and was acting within the scope of her employment when she improperly advised/instructed Plaintiff on the use of the elevator system in question and further for failing to timely hit the Stop button.

28.

Walmart is therefore liable to Plaintiff for the negligence of Jane Doe under the theory of Respondeat Superior.

COUNT IV
FAILURE TO PROPERLY TRAIN

29.

Plaintiff realleges and incorporates herein the allegations contained in paragraphs 1 through 28 above as if fully restated.

30.

To the extent that Walmart's training failed to properly instruct its employees, including, Jane Doe, as to the proper use of the cart escalator system, as well as when and how to utilize the "Stop button/switch", Walmart was negligent, which negligence caused Plaintiff to fall and sustain injuries.

31.

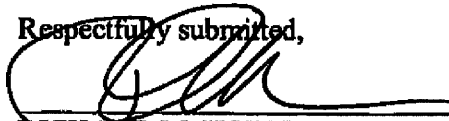
Walmart is therefore liable to Plaintiff because of its failure to properly train its employees as to the proper use of the cart escalator system and "Stop button/switch".

WHEREFORE, Plaintiff prays that she have a trial on all issues and judgment against Defendants as follows:

- (a) That Plaintiff recover the full value of past and future medical expenses and past and future lost wages in an amount to be proven at trial;
- (b) That Plaintiff recover for mental and physical pain and suffering and emotional distress in an amount to be determined by the enlightened conscience of the jury;
- (c) That Plaintiff recover such other and further relief as is just and proper;
- (d) That all issues be tried before a jury.

This 20th day of November, 2017.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'RMH', written over a horizontal line.

RICHARD M. HOWE
Attorney for Plaintiff
Georgia Bar #371805

HOWE LAW FIRM, P.C.
4385 Kimball Bridge Rd. Ste 100
Alpharetta, GA 3022
678-566-6800 or 678-566-6806 (direct)

Our File No. RM-384

General Civil Case Filing Information Form (Non-Domestic)

Court	County	Date Initiated
<input type="checkbox"/> Superior	GWINNETT	
<input checked="" type="checkbox"/> State		
	Docket #	
	17 C 07 15 4 - 2	
Plaintiff (s)	Defendant (s)	
JANE DELOVSKY	WALMART STORES, INC. & JANE DOE	
No. of Plaintiffs		No. of Defendants
1		2

Plaintiff/Petitioner's Attorney

Richard M. HoweBar # **371805**

Check Primary Type (Check only ONE)

- ☐ Contract/Account
☐ Wills/Estate
☐ Real Property
☐ Dispossessory/Distress
☐ Personal Property
☐ Equity
☐ Habeas Corpus
☐ Appeals, Reviews
☐ Post Judgment Garnishment, Attachments, or Other Relief
☐ Non-Domestic Contempt
☒ Tort (If tort, fill in right column)
☐ Other General Civil Specify

If Tort is Case Type (Check no more Than TWO)

- ☐ Auto Accident
☒ Premises Liability
☐ Medical Malpractice
☐ Other Professional Negligence
☐ Product Liability
☐ Other Specify

FILED IN OFFICE
 CLERK STATE COURT
 GWINNETT COUNTY, GA
 2017 NOV 20 PM 3:45
 RICHARD ALFONSO ANDERSON, CLERK
 MM-DD-YYYY

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

FILED IN OFFICE
CLERK STATE COURT
GWINNETT COUNTY, GA

2017 DEC -8 PM 12:03

Civil Action File No.

17-C-07154-2 RICHARD ALEXANDER, CLERK

JANE DELOVSKY,

Plaintiff,

v.

WAL-MART STORES, INC.
and JANE DOE,

Defendants.

ANSWER OF DEFENDANT WAL-MART STORES, INC.

COMES NOW, Defendant WAL-MART STORES, INC. (erroneously named)
and makes this Answer to Plaintiff's Complaint as follows:

FIRST DEFENSE

Wal-Mart Stores, Inc. is not a proper party.

SECOND DEFENSE

Plaintiff has failed to join an indispensable party.

THIRD DEFENSE

Plaintiff's Complaint fails to state a claim against Defendant upon which relief
can be granted.

FOURTH DEFENSE

Plaintiff's alleged damages, if any, were directly and proximately caused by

Plaintiff's own contributory negligence and failure to exercise ordinary care.

FIFTH DEFENSE

Plaintiff was not in the exercise of ordinary care for her own safety in the premises, and by the exercise of ordinary care could have avoided any injury to herself; and on account thereof, Plaintiff is not entitled to recover from Defendant.

SIXTH DEFENSE

Defendant denies that it was negligent in any manner whatsoever or that any negligent act or omission on its part caused or contributed to any injury or damage alleged to have been sustained by Plaintiff.

SEVENTH DEFENSE

Plaintiff assumed the risk of any hazard that was presented and is thereby barred from recovering against Defendant.

EIGHTH DEFENSE

Plaintiff's claims are barred by the applicable statutes of limitation.

NINTH DEFENSE

Plaintiff's claims are barred by laches.

TENTH DEFENSE

Defendant responds to the enumerated paragraphs of Plaintiff's Complaint as follows:

1.

Defendant admits the allegations contained in paragraph 1 of the Plaintiff's Complaint, but shows that Wal-Mart Stores, Inc. is not the proper Defendant.

2.

Defendant denies the allegations contained in paragraph 2 of the Plaintiff's Complaint.

3.

Defendant lacks sufficient knowledge and information to either admit or deny the allegations contained in paragraph 3 of Plaintiff's Complaint. Plaintiff was not an invitee of Wal-Mart Stores, Inc.

4.

Defendant denies the allegations contained in paragraph 4 of Plaintiff's Complaint.

5.

Defendant denies the allegations contained in paragraph 5 of Plaintiff's Complaint.

6.

Defendant denies the allegations contained in paragraph 6 of Plaintiff's Complaint. This Defendant did not operate the subject store.

7.

Defendant denies the allegations contained in paragraph 7 of Plaintiff's Complaint.

8.

Defendant denies the allegations contained in paragraph 8 of Plaintiff's Complaint.

9.

Defendant denies the allegations contained in paragraph 9 of Plaintiff's Complaint.

10.

Defendant denies the allegations contained in paragraph 10 of Plaintiff's Complaint.

11.

Defendant denies the allegations contained in paragraph 11 of Plaintiff's Complaint.

"Count I"

"Premises Liability"

12.

Defendant realleges and incorporates herein its answers contained in

paragraphs 1 through 11 above as if fully restated.

13.

Defendant lacks sufficient knowledge and information to either admit or deny the allegations contained in paragraph 13 of Plaintiff's Complaint. Plaintiff was not an invitee of Wal-Mart Stores, Inc.

14.

Defendant denies the allegations contained in paragraph 14 of Plaintiff's Complaint. This Defendant did not operate the subject store.

15.

Defendant denies the allegations contained in paragraph 15 of the Plaintiff's Complaint.

16.

Defendant denies the allegations contained in paragraph 16 of the Plaintiff's Complaint.

17.

Defendant denies the allegations contained in paragraph 17 of the Plaintiff's Complaint.

18.

Defendant denies the allegations contained in paragraph 18 of the Plaintiff's

Complaint.

19.

Defendant denies the allegations contained in paragraph 19 of the Plaintiff's Complaint.

"Count II"

"Vicarious Liability/Failure to Train"

20.

Defendant realleges and incorporates herein its answers contained in paragraphs 1 through 19 above as if fully restated.

21.

Defendant denies the allegations contained in paragraph 21 of the Plaintiff's Complaint.

22.

Defendant denies the allegations contained in paragraph 22 of the Plaintiff's Complaint.

"Count III"

"Negligence of Jane Doe & Walmart Respondeat Superior"

23.

Defendant realleges and incorporates herein its answers contained in

paragraphs 1 through 22 above as if fully restated.

24.

Defendant denies the allegations contained in paragraph 24 of the Plaintiff's Complaint.

25.

Defendant denies the allegations contained in paragraph 25 of the Plaintiff's Complaint.

26.

Defendant denies the allegations contained in paragraph 26 of the Plaintiff's Complaint.

27.

Defendant denies the allegations contained in paragraph 27 of the Plaintiff's Complaint.

28.

Defendant denies the allegations contained in paragraph 28 of the Plaintiff's Complaint.

"Count IV"

"Failure to Properly Train"

29.

Defendant realleges and incorporates herein its answers contained in paragraphs 1 through 28 above as if fully restated.

30.

Defendant denies the allegations contained in paragraph 30 of the Plaintiff's Complaint.

31.

Defendant denies the allegations contained in paragraph 31 of the Plaintiff's Complaint.

32.

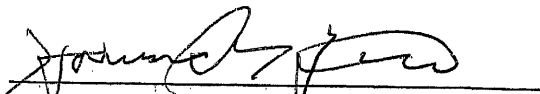
All other allegations contained in the Complaint which are not specifically responded to herein, are, therefore, denied.

33.

Defendant denies Plaintiff's prayer for relief, including subparagraphs (a), (b), (c), and (d) thereof.

WHEREFORE, Defendant prays that Plaintiff's Complaint be dismissed with all costs cast upon the Plaintiff. DEFENDANT DEMANDS TRIAL BY A JURY OF TWELVE (12) PERSONS AS TO ALL ISSUES SO TRIABLE.

McLAIN & MERRITT, P.C.



Howard M. Lessinger
Georgia Bar No. 447088



Jennie Rogers
Georgia Bar No. 612725
Attorneys for Defendant
WAL-MART STORES, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 365-4514
(404) 364-3138 (fax)
hlessinger@mmatllaw.com

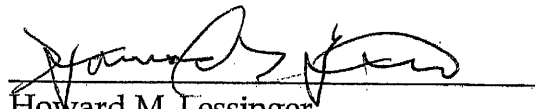
CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing ANSWER OF DEFENDANT WAL-MART STORES, INC. has this day been served upon opposing counsel, by placing same in the United States Mail, postage prepaid, and addressed as follows:

Richard M. Howe
Howe Law Firm, P.C.
4385 Kimball Bridge Road
Suite 100
Alpharetta, GA 30022

This the 6 day of December, 2017.

McLAIN & MERRITT, P.C.



Howard M. Lessinger
Georgia Bar No. 447088
Attorney for Defendant
WAL-MART STORES, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 365-4514
(404) 364-3138 (fax)
hlessinger@mmatllegal.com

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

JANE DELOVSKY,

Plaintiff,

v.

WAL-MART STORES, INC.
and JANE DOE,


Defendants.

_____ /

12-PERSON JURY DEMAND

COMES NOW Defendant, WAL-MART STORES, INC. and demands a trial
by a jury of twelve (12) persons.

McLAIN & MERRITT, P.C.


Howard M. Lessinger
Georgia Bar Number 447088
Attorney for Defendant
WAL-MART STORES, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326-3240
(404) 365-4514
(404) 364-3138 (fax)
hlessinger@mmatllaw.com

FILED IN OFFICE
CLERK STATE COURT
GWINNETT COUNTY, GA
2017 DEC -8 PM 12:03
Civil Action File No.
17-C-07154-2
RICHARD ALEXANDER, CLERK


CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the within and foregoing
12-PERSON JURY DEMAND upon counsel for all parties by depositing same in the
United States Mail in envelopes with sufficient postage affixed thereon to insure
delivery addressed as follows:

Richard M. Howe
Howe Law Firm, P.C.
4385 Kimball Bridge Road
Suite 100
Alpharetta, GA 30022

This the 6 day of December, 2017.

McLAIN & MERRITT, P.C.



Howard M. Lessinger
Georgia Bar No. 447088
Attorneys for Defendant
WAL-MART STORES, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326-3240
(404) 365-4514
(404) 364-3138 (fax)
hlessinger@mmlaw.com

ORIGINAL

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

JANE DELOVSKY,

Civil Action File No.

17-C-07154-2

Plaintiff,

v.

WAL-MART STORES, INC.
and JANE DOE,

Defendants.

_____ /

**DEFENDANT WAL-MART STORES, INC.'S
FIRST REQUEST FOR ADMISSIONS OF FACT TO PLAINTIFF**

COMES NOW Defendant Wal-Mart Stores, Inc., and pursuant to O.C.G.A. § 9-11-36, requests that Plaintiff admit for purposes of this action only, the following matters within 30 days.

1.

Plaintiff will not seek, recover or collect from Defendant Wal-Mart Stores, Inc., from Wal-Mart Stores East, LP., or from any Wal-Mart entity a sum in excess of \$75,000.

2.

Any portion of a verdict against Defendant that exceeds \$75,000 will be written down by the Court so that the Judgment shall not exceed the sum of \$75,000.

3.

Neither Wal-Mart Stores, Inc., Wal-Mart Stores East, LP. nor any other Wal-

Mart entity in this action shall be ordered, adjudged or called upon to pay to Plaintiff a sum in excess of \$75,000.

McLAIN & MERRITT, P.C.

A handwritten signature in black ink, appearing to read "Howard M. Lessinger", is written over a horizontal line.

Howard M. Lessinger

Georgia Bar Number 447088

Attorney for Defendant

WAL-MART STORES, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326-3240
(404) 365-4514
(404) 364-3138 (fax)
hlessinger@mmatllaw.com

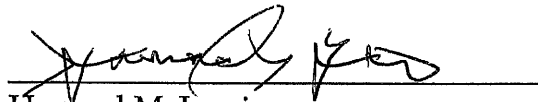
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the within and foregoing
DEFENDANT WAL-MART STORES, INC.'S FIRST REQUEST FOR
ADMISSIONS OF FACT TO PLAINTIFF upon counsel for all parties by
depositing same in the United States Mail in envelopes with sufficient postage
affixed thereon to insure delivery addressed as follows:

Richard M. Howe
Howe Law Firm, P.C.
4385 Kimball Bridge Road
Suite 100
Alpharetta, GA 30022

This the 6 day of December, 2017.

McLAIN & MERRITT, P.C.

A handwritten signature in black ink, appearing to read "Howard M. Lessinger", is written over a horizontal line.

Howard M. Lessinger
Georgia Bar No. 447088
Attorneys for Defendant
WAL-MART STORES, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326-3240
(404) 365-4514
(404) 364-3138 (fax)
hlessinger@mmatllaw.com

ORIGINAL

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

JANE DELOVSKY,

Civil Action File No.
17-C-07154-2

Plaintiff,

v.

WAL-MART STORES, INC.
and JANE DOE,

Defendants.

**DEFENDANT WAL-MART STORES, INC.'S FIRST
INTERROGATORIES AND REQUEST FOR PRODUCTION TO PLAINTIFF**

TO: Plaintiff, Jane Delovsky, by and through her counsel of record,

Defendant hereby request Plaintiff to answer the following interrogatories under oath and in accordance with the applicable provisions of the Georgia Civil Practice Act.

I. INSTRUCTIONS

Each interrogatory should be answered separately upon the knowledge or upon the information and belief of Plaintiff and any answer based upon information and belief should state that it is given upon such basis.

If the complete answer to an interrogatory is not known, so state and answer as fully as possible each part of such interrogatory to which an answer is known.

The following interrogatories shall be continuing to the full extent permitted

under the applicable provisions of the Georgia Civil Practice Act.

If any information is withheld under any claim of privilege, the following shall be provided with respect to such information: every person to whom such information has been communicated by Plaintiff and from whom such information was learned by Plaintiff, the subject matter of such information, and the basis upon which such privilege is claimed.

All definitions set forth hereinbelow shall be carefully regarded.

II. DEFINITIONS

As used herein, the word "Plaintiff" shall mean Jane Delovsky, including all officers, directors, attorneys, agents, employees, and representatives acting on her behalf.

As used herein, the word "Defendant" shall mean WAL-MART STORES, INC., including all officers, directors, attorneys, agents, employees, and representatives acting on its behalf.

As used herein, the words "you" and "your" shall refer to Plaintiff as defined hereinabove.

As used herein, the words "every document" shall mean every writing or records, however produced, reproduced, preserved, including but not limited to every book, pamphlet, periodical, letter, memorandum, telegram, report, records, study, interoffice, or intraoffice communication, memorandum reflecting an oral

communication, handwritten or other notes, working paper, draft, application, permit, chart, drawing paper, graph, survey, index, tape, disk, data sheet, data processing card, computer printout, and every other written, typed, recorded, transcribed, filed, or graphic matter, except such documents as are immune from production under applicable provisions of law.

As used herein, the word "person" shall include individuals, firms, partnerships, corporations, proprietorships, associations, governmental units, and every other type of organization or entity.

As used herein, the word "date" shall mean the exact day, month, and year, if ascertainable; otherwise, the word "date" shall mean the best available approximation (including relationship to other events).

As used herein, the word "identify" when used in reference to:

(a) an individual, shall mean to state his or her full name, present or last known residence address (designating which), and the present or last known business affiliation, job title, and employment address.

(b) a firm, partnership, corporation, proprietorship, association, or other organization or entity, shall mean to state its full name and present or last known (designating which) address and telephone number.

(c) a document, shall mean to state the title (if any), the date, author, sender, recipient, the identity of persons signing it, type of document (i.e., a letter,

memorandum, book, telegram, chart, etc.) or some better means of identifying it, a summary of its contents, and its present location or custodian. In the case of a document within the possession, custody, control, or access of Plaintiff, whether Plaintiff will make it available to the undersigned attorney for inspection and/or copying; and, in the case of a document that was, but is no longer, in the possession, custody, or control of Plaintiff, what disposition was made of it, when, why, and to whom.

1.

Please list the medical expenses, which you contend are the result of the Wal-Mart incident, in a format similar to the following: [In the event you do not yet have all of the charges, please provide the name and addresses of all medical providers].

Medical Provider	Address	Total of Charges

2.

Please list all medical, hospital, medicare and medicaid liens related to the Wal-Mart incident in a format similar to the following:

Lien Holder	Address	Total of Lien

3.

List each part of the body which you contend you injured in the Wal-Mart incident.

4.

Please itemize all lost wages, lost income, or lost capacity to earn which you contend are the result of the Wal-Mart incident in a format similar to the following:

Employer, if any	Hourly or Weekly Pay/Income	Dates Missed	Total Income

5.

Please list every motor vehicle collision in which you have been involved [as a driver, passenger or pedestrian] in a format similar to the following:

Date of Collision	Investigating Police Department	Part of Body Injured	Name and address of every Medical Provider

6.

Please list every on-the-job injury you have suffered in a format similar to the following:

Date of Injury	Name and address of Employer	Party of Body Injured	Name and address of every medical provider

7.

Please state the name and address of each and every employer you have had over the past 15 years, including your present employer, if any.

8.

Please state the name and address of each and every health insurer (individual, group, HMO, etc.) which has provided health coverage to you over the past 15 years.

9.

Please state the name and address of each and every automobile/motor vehicle insurer (State Farm, Allstate, GEICO, etc) which has provided liability coverage to you over the past 15 years.

10.

Please list each and every application you have submitted for Social Security Disability Benefits in a format similar to the following:

Date of Application	Address of Social Security Office	Basis for Alleged Disability	Benefits Granted or Denied.

11.

Please list each and every bodily injury claim ever made by you in a format similar to the following:

Date of Incident	Description of Incident	Part(s) of Body Injured	Name and address of Insurance Company Involved

12.

State the name and address of each and every hospital at which you have been examined, tested or treated [in-patient, out-patient, emergency room or diagnostic testing] at any time during the past 15 years.

13.

State the name and address of each and every pharmacy [including mail-order pharmacies] at which you have obtained prescription medication at any time during the past 15 years.

14.

Have you ever at any time BEFORE the Wal-Mart incident suffered an injury to, or experienced pain in the same part(s) of the body which you contend you injured in the Wal-Mart incident? If your answer is in the affirmative, state the name and address of each and every hospital, chiropractor, physical therapist or other medical provider who examined or treated said pre-Wal-Mart injury or condition.

15.

State the name and address of each and every chiropractor who has ever examined or treated you BEFORE the Wal-Mart incident.

16.

Has Plaintiff ever been convicted of a crime? If so, please state the date of each such conviction, the location of the Court where the conviction occurred, and the crime upon which each such conviction was based.

17.

Has Plaintiff been a party to another lawsuit? If your answer is in the affirmative, give the approximate date the lawsuit was filed, the Court in which it was filed, and the style of the case.

18.

State specifically and in reasonable detail how the occurrence happened

which is the basis of this lawsuit, and include any oral statements by Wal-Mart associates which you contend may constitute admissions against interest.

19.

State the name of every person known to Plaintiff who appears to be an eyewitness to the incident as alleged in Plaintiff's Complaint.

20.

Please state the names and addresses of all persons known to Plaintiff who have knowledge of any relevant facts concerning the issues in this case.

21.

With regard to each statement (oral, written, recorded, court or deposition transcript, etc.) taken from any person with knowledge relevant to this lawsuit, please state the name of each person giving the statement, the name and address of the person or entity taking each statement, the date each statement was taken, and the name and address of each person having possession, custody, or control of each statement.

22.

Please identify each expert expected to testify at trial, including all subsequent treating physicians and practitioners of the healing arts; state the subject matter the expert is expected to testify about and the substance of the facts and opinions to which the expert is expected to testify; and give a summary of the grounds for each

opinion.

23.

Describe with reasonable particularity all photographs, charts, diagrams, videotapes, and other illustrations of any person, place, or thing involved in this lawsuit, giving the date each was made and the name and address of the person(s) with possession, custody, or control of each item.

24.

Please identify by date, author and subject matter all documents relied upon by you to demonstrate and supports facts relevant to the issues in this litigation.

25.

State your date of birth, marital status and full name of spouse, driver's license number, social security number, and educational background, including all schools, institutions, trade, or professional schools attended, the dates of attendance of each, and the degrees, certificates, or licenses obtained at each. [If you do not wish to include your social security number in Answers to Interrogatories, Plaintiff's counsel may forward Plaintiff's social security number by letter or email.]

REQUEST FOR PRODUCTION OF DOCUMENTS

Plaintiff is requested to produce the following documents at the office of Defendant's attorneys, McLain & Merritt, P.C., 3445 Peachtree Road, Suite 500, Atlanta, Georgia 30326, thirty (30) days after service of these interrogatories and

request for production of documents; or in the alternative to attach copies of said documents to the responses to these interrogatories and request for production of documents.

1.

All medical expenses or bills or drug bills incurred by you in connection with injuries allegedly received in the occurrence giving rise to your complaint in this civil action.

2.

All medical reports (including hospital records) prepared by any physician, psychologist, or other practitioner of the healing arts who treated you for injuries allegedly received in this occurrence in your possession or the possession of your attorney.

3.

All photos of any person, place, or thing related to this occurrence (photocopies of such photos may be produced in lieu of the positive prints).

4.

Any and all documents obtained from any defendant or his/her/its employees or agents at any time following the incident referred to in your complaint.

5.

Any and all correspondence to you or anyone on your behalf from any defendant or anyone on his/her/its behalf.

6.

Any and all correspondence from you or anyone on your behalf to any defendant or anyone on his/her/its behalf.

7.

Copies of any statements or recordings of any statements from any employee of any defendant.

8.

Copies of any applications for benefits or proofs of loss provided by you or on your behalf to any insurance company and which pertains to the incident or injuries referred to in your complaint.

9.

Copies of any card verifying existence of any major medical insurance or hospitalization benefits or coverage at the time of the incident referred to in your complaint.

10.

Copies of any report by any expert retained and consulted by you with respect to any aspect of the occurrence referred to in your complaint.

11.

Copies of all witness statements obtained from any person about any information related to any issue in this lawsuit, including but not limited to liability or damages.

12.

Copies of any photographs, motion pictures, videotapes, plans, drawings, blue prints, sketches, diagrams, computer simulations, or any other photographic or demonstrative evidence or depiction concerning the subject incident or any of the issues involved in this lawsuit including, but not limited to, the issues of liability and damages.

13.

Copies of all reports received from any experts, including experts who will testify at trial, who have investigated any issue related to the subject incident and related to this lawsuit. Also, produce all materials relied upon by each expert in formulating his/her opinions and conclusions.

14.

Copies of any records reflecting or referring to employment of you for the five years preceding the accident referred to in your complaint, including but not limited to W2 forms, 1099 forms, separation notices, income statements, et cetera.

15.

Any and all documents in your possession regarding defendants' employees and/or independent contractor's failure to inspect anything you contend should have been inspected immediately before your accident.

16.

Any and all documents that you contend show that any defendant did not determine that the location or instrumentality involved in plaintiff's incident (on the date of the subject incident) was properly inspected, managed, and/or maintained at the time of the subject incident.

17.

Copies of all documentation of any kind received from any person or corporation relative to inspecting, managing, and/or maintaining the instrumentality or location where plaintiff's incident occurred on the date of the subject incident.

18.

Copies of any and all documents of whatever kind evidencing any substantially similar event in the immediate area where plaintiff's claimed incident occurred on the date of the subject incident.

19.

Any and all reports and documents taken or prepared by plaintiff or anyone

on behalf of plaintiff concerning the incident referred to in plaintiff's complaint.

20.

Any and all reports and/or statements concerning the subject incident submitted to and/or taken by any investigator or adjuster.

21.

Copies of any and all photographs and/or videotapes and/or moving pictures of plaintiff or of any defendant or his/her/its agents, servants, or employees at any time after the accident referred to in plaintiff's complaint.

22.

Copies of any documents or other material which in any way relates to plaintiff or plaintiff's representatives or family contacting or attempting to contact any defendant and/or defendant's representatives after the incident up to and including the date of trial.

23.

Copies of any and all documents which support or otherwise pertain to any of your responses to defendant's first interrogatories, identifying which interrogatory response each document supports or otherwise pertains to.

24.

All documents, records, reports, memoranda, and/or correspondence referring in any way to injuries to persons who claimed to have experienced a

substantially similar incident to that involving the plaintiff at the same store within three years prior to plaintiff's incident.

25.

The curriculum vitae of all experts who are expected to testify on behalf of the plaintiff(s).

26.

The written or oral reports of experts who are expected to testify on behalf of the plaintiff(s).

27.

All documents, records, correspondence, reports, and/or memoranda referring in any way to the inspecting, managing, and/or maintaining the instrumentality or location referred to in the complaint.

28.

Floor plan, aerial photographs, and/or other drawings or materials demonstrating an overhead view of the instrumentality or location described in the complaint.

29.

Documents and/or items that describe, list and/or demonstrate:

- (a) the area where plaintiff's incident occurred; and
- (b) the lighting and/or lack of lighting of the area where plaintiff's incident

occurred.

30.

Copies of any photographs, still or motion pictures, and/or videotapes of the incident scene, taken on or after the date of the subject incident.

31.

Documents you receive in response to requests to non-parties for the production of documents.

32.

All safety notices, warnings, bulletins, or other similar documents you contend should have been displayed or distributed by defendant(s) at the location or instrumentality where you contend your accident took place.

33.

Any documents containing measurements, surveys, or calculations made by you or anyone on your behalf or your lawyer's behalf of the instrumentality or location referred to in your complaint.

34.

Any industry or trade standard you contend applies to the location, instrumentality, or claims referred to in your lawsuit.

35.

Any records of cell phone calls by you on the day of the incident referred to

in your complaint.

36.

Any records of questionnaires, questions, or other papers provided to any focus groups, jury research firms, or non-parties (other than your lawyer) concerning the facts or damages claimed by you.

37.

Any records of vehicle, bus, train, or airline travel by you since the date of the incident alleged in your complaint.

38.

Any photographs or videos exhibiting or documents supporting engagement or participation by you in any hobbies or recreation for (a) the five years before and (b) the entire time after the accident referred to in your complaint.

39.

Any histories or documents written or signed by you concerning any medical, psychological, or psychiatric testing for (a) the ten years before and (b) the entire time after the accident referred to in your complaint.

40.

Any documents referring to or showing any hazardous condition in the area of your claimed accident.

41.

Any documents referring to or showing any design and/or construction defect in the area of your claimed accident.

42.

Any documents referring to, showing, or demonstrating why you could not have seen and avoided any claimed hazard immediately before your claimed fall.

43.

For each Facebook account and/or profile maintained by you, please produce your Facebook profile and account data. (In order to create the zip file that contains the profile, please sign on to your Facebook account and click on the "account button" at the top right side of your Facebook page. Click on "account settings" on the toolbar that opens up. On this newly opened screen, click on the "learn more" button by the "download your information" section. Click on the download button. Facebook will then compile the zip file and email a notification to you with a link in the email that will allow you to download the Facebook file. This process takes between 30-90 minutes depending on the size of the profile. Please save this profile to a USB flash drive and provide it as your response. Reasonable expenses for this drive will be paid).

44.

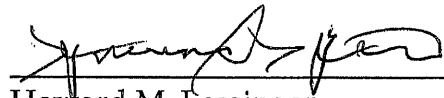
Please provide all photographs on your Facebook profile(s), the photographs

you are in on your Facebook profile. (To do this, you must open each picture individually, right click on the picture and save it on the same USB drive). For all photographs that are not produced by Plaintiff, please create a privilege log describing said photographs.

45.

Please provide archives for all Twitter accounts maintained by you or registered to you. (To get your archive, go to the Settings area and look for the new "Your Twitter archive" feature. A link will be emailed to you that leads to a page within Twitter where you can complete the download. After clicking download, a ZIP file will be downloaded. When you open that file, you will see a "readme" file with instructions. Please provide this ZIP file).

McLAIN & MERRITT, P.C.

A handwritten signature in black ink, appearing to read 'Howard M. Lessinger', written over a horizontal line.

Howard M. Lessinger
Georgia Bar No. 447088
Attorneys for Defendant
WAL-MART STORES, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 365-4514

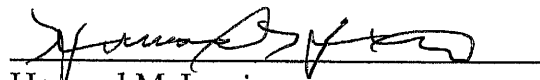
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the within and foregoing
**DEFENDANT WAL-MART STORES, INC.'S FIRST INTERROGATORIES AND
REQUEST FOR PRODUCTION TO PLAINTIFF** upon counsel for all parties by
depositing same in the United States Mail in envelopes with sufficient postage
affixed thereon to insure delivery addressed as follows:

Richard M. Howe
Howe Law Firm, P.C.
4385 Kimball Bridge Road
Suite 100
Alpharetta, GA 30022

This the 6 day of December, 2017.

McLAIN & MERRITT, P.C.



Howard M. Lessinger
Georgia Bar No. 447088
Attorneys for Defendant
WAL-MART STORES, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 365-4514

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

FILED IN OFFICE
CLERK STATE COURT
GWINNETT COUNTY, GA
2017 DEC -8 PM 12:03

JANE DELOVSKY,

Civil Action File No.

17-C-07154-2

Plaintiff,

v.

WAL-MART STORES, INC.
and JANE DOE,

Defendants.

CERTIFICATE REGARDING DISCOVERY

Pursuant to Uniform State Court Rule 5.2, as amended, the undersigned hereby certifies that the following discovery has been served upon all persons identified in the Certificate of Service attached hereto and incorporated herein by reference:

- 1) DEFENDANT'S FIRST REQUEST FOR ADMISSIONS TO PLAINTIFF
- 2) DEFENDANT'S INTERROGATORIES AND REQUEST FOR PRODUCTION TO PLAINTIFF

McLAIN & MERRITT, P.C.



Howard M. Lessinger

Georgia Bar No. 447088

Attorneys for Defendant

WAL-MART STORES, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 365-4514
(404) 364-3138 (fax)

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the within and foregoing
CERTIFICATE REGARDING DISCOVERY upon counsel for all parties by
depositing same in the United States Mail in envelopes with sufficient postage
affixed thereon to insure delivery addressed as follows:

Richard M. Howe
Howe Law Firm, P.C.
4385 Kimball Bridge Road
Suite 100
Alpharetta, GA 30022

This the 6 day of December, 2017.

McLAIN & MERRITT, P.C.



Howard M. Lessinger
Georgia Bar No. 447088
Attorneys for Defendant
WAL-MART STORES, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 365-4514
(404) 364-3138 (fax)
hlessinger@mmatlilaw.com

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

FILED IN OFFICE
CLERK STATE COURT
GWINNETT COUNTY, GA
2017 DEC -8 PM 12:03
RICHARD ALEXANDER, CLERK

JANE DELOVSKY,

Plaintiff,

v.

WAL-MART STORES, INC.

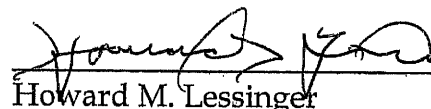
and JANE DOE,

Defendants.

NOTICE OF TAKING DEPOSITION

YOU ARE HEREBY notified that beginning on the 26th day of March, 2018, commencing at 11:00 a.m., at the offices of Howe Law Firm, PC, 4385 Kimball Bridge Road, Suite 100, Alpharetta, GA, the deposition will be taken of Jane Delovsky. Said deposition will be taken for purposes of discovery and all other purposes provided by law before an officer duly authorized to administer oaths. The deposition shall continue from day-to-day until completion. This deposition may also be videotaped by a videographer.

McLAIN & MERRITT, P.C.



Howard M. Lessinger
Georgia Bar No. 447088
Attorneys for Defendant

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 266-9171

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the within and foregoing NOTICE OF TAKING DEPOSITION upon counsel for all parties by depositing same in the United States Mail in envelopes with sufficient postage affixed thereon to insure delivery addressed as follows:

Richard M. Howe
Howe Law Firm, P.C.
4385 Kimball Bridge Road
Suite 100
Alpharetta, GA 30022

This the 6 day of December, 2017.

McLAIN & MERRITT, P.C.

A handwritten signature in black ink, appearing to read 'Howard M. Lessinger', is written over a horizontal line.

Howard M. Lessinger
Georgia Bar No. 447088
Attorneys for Defendant
WAL-MART STORES, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326
(404) 365-4514
(404) 364-3138 (fax)
hlessinger@mmatllegal.com

FILED IN OFFICE
CLERK STATE COURT
GWINNETT COUNTY, GA

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

JAN -5 PM 3:50

RICHARD ALEXANDER, CLERK

JANE DELOVSKY,

Civil Action File No.

17-C-07154-2

Plaintiff,

v.

WAL-MART STORES, INC.
and JANE DOE,

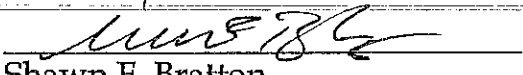
Defendants.

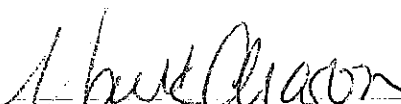
CONSENT ORDER SUBSTITUTING DEFENDANT


It appearing to the Court that Wal-Mart Stores East, LP. is the correct corporate Defendant, by consent of the parties and for good cause shown, it is hereby

ORDERED that Wal-Mart Stores East, LP. shall be substituted as a Defendant in lieu of Wal-Mart Stores, Inc. The caption shall be amended to reflect that Wal-Mart Stores East, LP. is the sole corporate Defendant. Plaintiff need not file an Amended Complaint to reflect this substitution, and Defendant need not file any further Answer.

SO ORDERED this 5 day of January, ²⁰¹⁸2017.


Shawn F. Bratton
Judge, Gwinnett County State Court


Mark Aragon *By HMC w/ express permission*
Georgia Bar No. 021040
Counsel for Plaintiff
4385 Kimball Bridge Road, Ste 100
Alpharetta, GA 30022
(678) 566-6806
1markaragon@gmail.com


Howard M. Lessinger
Georgia Bar No. 447088
Counsel for Defendant
3445 Peachtree Road, Ste 500
Atlanta, GA 30326
(404) 365-4514
hlessinger@mmlaw.com